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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
CTIA Petition for Waiver to)	CC Docket No. 95-116
Extend the Implementation Deadlines)	DA 97-2579
of Wireless Number Portability)	
)	

COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

MCI Telecommunications Corporation ("MCI"), by its attorneys, respectfully submits these comments on the Public Notice released by the Wireless Telecommunications Bureau ("WTB")¹ seeking public comment on a recent petition by the Cellular Telecommunications Industry Association ("CTIA") to extend the implementation deadline of wireless number portability until March 31, 2000.²

INTRODUCTION AND SUMMARY

Accepting CTIA's waiver petition would derail the implementation of number portability and substantially stymie the growth of local telephone competition. As the Commission has repeatedly recognized, number portability fosters competition, promotes efficient telephone number usage and serves the public interest. While the Commission has established stringent criteria for waiver of the wireless number portability implementation deadline, CTIA has disregarded those standards by submitting a request containing completely unsubstantiated

¹ *Wireless Telecommunications Bureau Seeks Comment on CTIA Petition For Waiver to Extend the Implementation Deadlines of Wireless Number Portability*, "Public Notice, CC Docket No. 95-116, DA 97-2579 (Wireless Telecommunications Bur. rel. Dec. 9, 1997) ("Public Notice").

² *Cellular Telecommunications Industry Association, Petition for Extension of Implementation Deadlines of the Cellular Telecommunications Industry Association*, Nov. 24, 1997 ("CTIA Petition").

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claims, totally bereft of any supporting facts necessary to judge the reasonableness of allowing wireless carriers nine more months to begin providing number portability. The waiver petition should accordingly be denied, and the Commission should require detailed and regular reporting on wireless number portability implementation progress.

DISCUSSION

I. THE PETITION FAILS TO MEET THE HIGH BURDEN REQUIRED TO GRANT SUCH A SIGNIFICANT WAIVER

The CTIA Petition is based on the totally unsubstantiated claim that wireless carriers cannot comply with the current June 30, 1999 deadline for number portability because the “process [of implementing number portability] . . . has proven more complex than originally anticipated.”³ The petition not only lacks sufficient information to judge the merits of this request, but also utterly fails to meet the strict legal requirements for a waiver of the wireless number portability implementation deadline. This is yet another in a continuing series of attempts by CTIA to delay implementation of wireless number portability so that its members may direct investments elsewhere, protect their markets, and thwart the growth of vigorous competition.⁴

The petition provides no support to CTIA’s assertion that “[i]t has become apparent that the industry cannot meet the June 30, 1999 deadline for service number portability.”⁵ What the

³ CTIA Petition at 2.

⁴ CTIA has previously unsuccessfully attempted to prevent the implementation of wireless number portability. *See* CTIA Comments (responding to the Notice of Proposed Rulemaking in the Proceeding) of Sept. 12, 1995. CTIA also more recently petitioned the Commission to reconsider its rules and delay implementation, *see* CTIA Petition for Reconsideration (Aug. 26, 1996), and to forbear from application of number portability to wireless carriers. Petition for Forbearance of the Cellular Telecommunications Industry Association (Dec. 16, 1997).

⁵ *Id.* at 4.

petition, and the accompanying declaration, actually include is limited and dated background information describing previous work related to wireless number portability. Rather than support the petition, the declaration calls into question the pace at which CTIA has been addressing this issue and makes apparent that CTIA's members have certainly not moved forward with the dispatch anticipated by the Commission. The only other support for its petition CTIA offers is that the industry has "had to develop a means of allowing subscribers to keep their telephone number and separate the Mobile Identification Number ("MIN") in the handset."⁶ This, however, appears to have been an issue previously documented as early as July 1996 by the Industry Number Committee (INC) in its Report on Number Portability, and likely identified much earlier.⁷

In reality, CTIA's principal justification is merely the inconvenience that implementing number portability places on its membership. CTIA asserts that "[p]rompt WTB decision-making would assure carriers that they do not need to presently allocate funds for a number portability solution that is not attainable until at least 2000."⁸ It also emphasizes that not being "able to efficiently allocate their resources . . . is most significant for PCS licensees who are in the process of constructing their network and need to devote substantial resources to building-out and extending system coverage."⁹ CTIA's argument clearly indicates that if a waiver is granted, its membership will divert funds from number portability development to pursue other activities

⁶ *Id.* at 2. CTIA also alludes to "other things" that industry has had to address, but does not indicate what those "other things" are. *Id.*

⁷ INC Report on Number Portability, INC 96-0607-013, issued July 11, 1996 at 43. ("For example, in the case of IS-41 based registration procedures, the service provider with a specific Mobile Identification Number (MIN) or its equivalent would have to be determined via an additional or modified set of procedures in order to establish a dialogue between the serving and home systems.") INC began examining number portability in July of 1993. Its report on number portability documents its examination of issues from that point to the issuance of the document. *Id.* at 9.

⁸ CTIA Petition at 5.

⁹ *Id.*

that cellular carriers view as more central to their short term business objectives. Thus, granting a waiver would likely lead to even further delays because less resources would be directed at solving number portability issues. This is a result that MCI believes the Commission should not promote by granting the waiver.

CTIA requests the maximum extension of time – nine months – to implement number portability¹⁰ permitted under the Wireless Telecommunications Bureau’s delegated authority.¹¹ Nonetheless, even this purportedly “minimal” delay would have significant repercussions throughout the telecommunications industry. The Commission has determined, and recently affirmed, the importance of wireless number portability to vigorous local competition. Prematurely granting this waiver based on such limited evidence would delay the growth of competition, and call into question the Commission’s commitment to the expeditious implementation of both wireless and wireline number portability. Granting the waiver based on so little support would likely open the door to additional delays and further waiver requests by both wireline and wireless providers who, like CTIA’s members, would seek such relief to support management of capital budgets and pursuit of strategic business objectives. Parties, particularly incumbent providers, would be encouraged to file “me-too” waivers, leading to more delay, based on similarly unsubstantiated claims that would be difficult to deny if the Commission allows waivers based on self-serving statements in lieu of credible technical evidence. As discussed more thoroughly *infra*, delaying the implementation of number portability would also thwart the growth of competition and further aggravate telephone number exhaustion.

¹⁰ *Id.* at 8.

¹¹ *Telephone Number Portability*, First Memorandum Opinion and Order on Reconsideration, CC Docket No. 95-116, FCC 97-74, rel. Mar. 11, 1997 at ¶134 (“Reconsideration Order”).

In addition to these compelling policy arguments, CTIA has plainly failed to meet the legal requirements for the grant of a waiver. The Commission may exercise its discretion where there is “good cause” to do so.¹² However, as the Commission recently explained in another numbering matter, “that discretion ‘does not contemplate that an agency must or should tolerate evisceration of a rule by waivers.’ Rather, petitioners generally face a “high hurdle” to show that a waiver is justified.”¹³ A waiver is appropriate only if “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”¹⁴ Examples of such special circumstances include “hardship imposed by the rule's enforcement, equity, or more effective implementation of overall policy on an individual basis.”¹⁵ Perhaps most importantly, grant of a waiver “must be based on articulated, reasonable standards that are predictable, workable, and not susceptible to discriminatory application.”¹⁶

Moreover, the Commission has specified explicit standards for waivers of the implementation dates for wireless number portability. In establishing the procedures and information that must be filed, the Commissions emphasized “that [wireless] carriers are expected to meet the prescribed deadlines, and a carrier seeking relief must present *extraordinary circumstances* beyond its control in order to obtain an extension of time.”¹⁷ A carrier seeking a

¹² 47 C.F.R. § 1.3.

¹³ *Pennsylvania Public Utility Commission Petition for Expedited Waiver of 47 C.F.R. Section 52.19 for Area Code 412 Relief*, Order, CC Docket No. 96-98, DA 97-675, rel. Apr. 4, 1997, at ¶ 14, citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972) (“WAIT Radio”).

¹⁴ *Id.* citing *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“Northeast Cellular”); *WAIT Radio*, 418 F.2d at 1157.

¹⁵ *Id.* citing *WAIT Radio*, 418 F.2d at 1159.

¹⁶ *Id.* citing *WAIT Radio*, 418 F.2d at 1153.

¹⁷ *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 96-286, rel. June 27, 1996 at ¶168 (“First Report and Order”) (emphasis added). The Commission established essentially the same waiver procedures and requirements for both wireline and wireless carriers. The wireline carriers’ procedures were set forth in paragraph 85 of the First Report and Order, while the wireless carriers’ procedures were set forth in paragraph 168.

waiver “must demonstrate through *substantial, credible* evidence the basis for its contention that it is unable to comply with our deployment schedule. Such requests must set forth:

- (1) the facts that demonstrate why the carrier is unable to meet our deployment schedule;
 - (2) a detailed explanation of the activities that the carrier has undertaken to meet the implementation schedule prior to requesting an extension of time;
 - (3) an identification of the particular switches for which the extension is requested;
 - (4) the time within which the carrier will complete deployment in the affected switches;
- and

- (5) a proposed schedule with milestones for meeting the deployment date.”¹⁸

CTIA’s petition not only fails to mention the Commission’s standards for granting a waiver, but not surprisingly falls woefully short of meeting them. CTIA has provided no facts that demonstrate why wireless carriers are unable to meet the Commission’s deployment schedule. It simply indicates—something everyone already knows and has known for a long time—that implementing wireless number portability is technically challenging. It provides no detailed facts regarding the time frames needed to develop standards, nor does it provide any details regarding deployment of technical upgrades to implement wireless changes other than to say that “[i]n a large distributed network environment it *can* take up to 24 months to integrate new applications from planning to roll-out phases.”¹⁹ This says nothing about smaller networks, and it is unclear who or what CTIA is referring to when it speaks about “large distributed network environments.” Furthermore, the Commission should not base a waiver on how long it *can* take, but must know how long it *will* take and what efforts could be done to expedite the schedule.

¹⁸ *Id.* (emphasis added).

Additionally, CTIA provides no credible evidence to meet the third through fifth prongs of the number portability waiver requirement.²⁰ With respect to the third prong, there is absolutely no mention of the switches that will be impacted if CTIA's petition is granted. One must assume that CTIA seeks a waiver for all wireless switches; however, this seems inconsistent with early views by PCS providers who wanted to see wireless number portability implemented quickly to foster wireless-wireless competition with incumbent cellular providers. Thus, it is unclear as to what and whom this waiver would apply, and whether such a broad waiver is necessary or even desired. Additionally, with respect to the fourth prong CTIA does not indicate when implementation will occur in switches, only that it is requesting a nine month extension to the deadline. Thus, once again one must guess how CTIA intends to meet the fourth prong of the above requirement. Finally, CTIA does not provide a proposed schedule with milestones for meeting its proposed deployment date. Thus, it fails the fifth prong of the requirement, as well.

In sum, the Commission should and must deny this petition. It woefully lacks sufficient information to judge its merits, and utterly fails to meet the legal requirements for a waiver of the wireless number portability implementation deadline. Granting this waiver, particularly so far in advance of the current implementation deadline, would set a dangerous precedent that is likely to lead to additional waiver requests and delays. Number portability is simply too important to the growth of competition for a waiver to be granted based on such limited information, especially in light of CTIA's total disregard for the Commission's waiver standard.

¹⁹ CTIA Petition, Prest Declaration at 5 (emphasis added).

²⁰ CTIA comes closest to meeting the second prong in that it does provide a high level chronology of the industry efforts leading up to the waiver request. This chronology, however, raises additional questions regarding the large lag times between steps in the implementation process.

II. WIRELESS NUMBER PORTABILITY PROVIDES SIGNIFICANT CONSUMER AND COMPETITION BENEFITS AND SHOULD NOT BE FURTHER DELAYED

A. Number Portability Promotes Competition

Wireless number portability promotes vibrant telecommunications competition and should not unnecessarily be delayed. The Commission has repeatedly reached this conclusion, and has found that number portability serves the public interest despite the continued opposition of CTIA. As early as 1994, the Commission recognized the “importance of local number portability to the promotion of competition in the local exchange market.”²¹ It has continually reaffirmed this conclusion and specifically determined that wireless service provider portability “will promote competition between existing cellular carriers, as well as facilitate the viable entry of new providers of innovative service offerings, such as PCS and covered SMR providers.”²² It has further emphasized that it is “important that service provider portability for cellular, broadband PCS, and covered SMR providers be made available so as to remove barriers to competition among such providers.”²³

The principal members of CTIA, cellular providers, have the most to lose through the implementation of number portability. The Commission has previously concluded that the cellular industry, with two facilities-based carriers offering service in each market area, is more competitive than traditional monopoly telephone markets, but it is far from perfectly competitive.²⁴ While competition has grown since the Commission reached that conclusion, wireless competition can and must continue to grow to benefit consumers. This growth can best

²¹ *North American Numbering Plan*, Notice of Proposed Rulemaking, CC Docket No. 92-237, FCC 94-79, rel. Apr. 4, 1994 at ¶ 42.

²² First Report & Order at ¶ 157.

²³ *Id.* at ¶ 158.

²⁴ *Id.*

be facilitated by number portability, which facilitates new entry that can constrain monopolistic or duopolistic conduct by incumbent providers and thus “serve the public interest by potentially lowering prices, improving service quality, and encouraging innovation.”²⁵ Thus, the principal competitive impact of any extension of the number portability deadlines for wireless carriers, as CTIA requests, would be to reinforce the existing market power of incumbent cellular carriers and retard competition for existing cellular subscribers. Unlike wireline local customers, CTIA member customers would still be required to change their telephone number if they wanted to switch service to a competitive provider.

B. Number Portability Avoids Premature Telephone Number Exhaust

Number portability also enhances the efficient use of numbering resources by enabling number pooling. With number pooling, carriers no longer need to be assigned full Central Office code blocks of 10,000 numbers, but instead can be assigned numbers in blocks of 1,000 or even individually. Assignment of smaller blocks leads to more efficient number usage that will reduce the repeated exhaust of area codes, a numbering problem that over the past several years has accelerated, leading to large-scale consumer confusion and cost and the expenditure of significant Commission and state commission resources. CTIA itself has recognized as much, arguing that “given the staggered dates of wireless and wireline number portability,” number pooling should be implemented only when both wireless and wireline carriers “are fully incorporated into the local number portability environment.”²⁶ MCI strongly opposes the view

²⁵ *Id.*

²⁶ *Telephone Number Portability*, Second Report and Order, CC Docket No. 95-116, FCC 97-289, rel. Aug. 18, 1997 at ¶ 84 & nn. 239-40.

that number pooling should not be implemented prior to wireless number portability.²⁷

Moreover, even if the Commission permits number pooling to be implemented prior to wireless number portability delaying wireless number portability will impede more efficient number usage by wireless carriers which negatively impacts both wireline and wireless carriers as a result of reduced number availability and more frequent area code exhaust.

There can be no question that the premature exhaust of area codes and other telephone numbering resources—caused in part by the explosive demand for wireless, Internet and other technically advanced telecommunications services—is a serious public interest problem facing the industry and the Commission. The consequences of number exhaustion will only become more serious as competition increases, since as CTIA itself has argued, nondiscriminatory access to numbering resources is a fundamental predicate to effective competitive communications markets. Having already sought to delay number pooling until the existing June 1999 deadline for wireless carrier implementation of number portability, however, CTIA's petition on number portability cannot be decided without reference to its serious consequences for number pooling and area code exhaust. Even if the CTIA petition were otherwise meritorious, its impact on the acceleration of telephone number depletion would be enough alone, as a matter of sound communications policy, to make grant of a wireless waiver or extension contrary to the public interest.

²⁷ See, e.g., MCI Comments of October 29, 1997 in the matter of *"Request for Comment on North American Numbering Council Letter Seeking Clarification of the Term 'Technology Neutral,'" CC Docket No. 92-237, DA 97-2234.*

III. THE COMMISSION SHOULD DEFINE INTERIM IMPLEMENTATION MILESTONES AND REQUIRE CTIA TO PROVIDE DETAILED PROGRESS REPORTS.

The present CTIA petition, and its other attempts to delay wireless number portability, demonstrate the need for the Commission to define specific interim wireless number portability milestones that the wireless industry must meet. If the Commission's implementation deadlines are to have any "teeth," the Commission should not be required to rely, as here, on vague descriptions in lieu of detailed technical presentations. Furthermore, the use of such interim reporting obligations would mean that, if CTIA is correct that implementation is in fact infeasible before June 1999, the Commission will have ample information—and ample prior notice—in order to grant any needed waiver at that time.

The Commission should therefore require that the CTIA, on behalf of the wireless industry, provide detailed and specific monthly implementation progress reports to the North American Numbering Council ("NANC") and the WTB.²⁸ Interim "milestones" and monthly progress reports are essential to enable the Commission and industry to closely monitor progress to ensure that CTIA and its member companies that support delays do not impede number portability to promote their own commercial self-interests.

These interim milestones should be specific and measurable. Additionally, the Commission should make clear that if these interim milestones are not met, it will consider requiring individual wireless carriers to file reports, imposing sanctions or taking other steps to motivate reluctant wireless carriers, absent "extraordinary circumstances" for the delay. MCI proposes that the milestones include technical and operational deadlines related to standards

²⁸ CTIA should coordinate with and gather information for these reports from the Personal Communications Industry Association ("PCIA") and individual wireless carriers.

development, software development, testing, operational readiness and implementation.

Specifically, MCI proposes that the Commission use the following activities and dates contained in Table 1 as starting points to determine wireless number portability milestones. MCI urges the Commission to establish final milestones and completion dates as quickly as possible to avoid further delay and uncertainty.

TABLE 1: Proposed Wireless Number Portability Milestones

Number Portability Milestones	Milestone Completion Date
Standards Development	
1. Complete Needed Standards	March 1, 1998
Switch Software Development	
2. Complete Switch Upgrade Development	January 1, 1999
LNP Database Upgrades	
3. Complete Definition of Needed Database Changes	April 1, 1998
4. Complete LNP Database Changes	June 30, 1999
Operations Support Systems - Transaction Processing	
5. Complete Order Entry Procedures	April 1, 1998
6. Identify Needed Systems Upgrades	July 1, 1998
7. Complete Testing of New Processes	June 1, 1999
8. Deploy Order System Upgrades	June 30, 1999
9. Deploy Traffic System Upgrades	June 30, 1999
Testing	
10. Complete Lab Testing	February 1, 1999
11. Complete Lab-to-Lab Testing	March 15, 1999
12. Complete Network-Network Testing	May 1, 1999
13. Complete Network-Reseller Testing	June 1, 1999
Implementation	
14. Complete Deployment Plan	January 1, 1999
15. Complete Initial Deployment	June 30, 1999

The Table identifies the six major areas where MCI believes milestones should be defined, then provides individual steps within each major area. Many of the activities can occur simultaneously, while in numerous cases the preparation for events that must occur consecutively can begin prior to the completion of the preceding event. For example, while lab-

to-lab testing should not begin prior to the completion of lab testing, the preparations for lab-to-lab testing can, including developing test scripts, setting up the test configuration and scheduling laboratory and testing resources. Furthermore, while the period between the completion of standards and switch software development is less than the typical development interval by a few months, MCI believes that this development time is reasonable given that the industry has been aware of the legal requirement to implement wireless number portability since June 1996. Thus, the January 1, 1999 milestone deadline for the completion of switch software modifications represents a development time interval of nearly thirty (30) months, which is more than sufficient time to develop the necessary upgrades.

With respect to the milestone dates for “Complete Testing of New Processes” and “Complete LNP Database Changes,” prior to these dates the operations systems and LNP database must be operational to facilitate testing. For example, the LNP database will need to be populated with wireless test numbers, and operations systems must be functioning to allow for the proper testing of order processing, performance and traffic monitoring. The milestone dates represent that point at which the LNP database and systems are fully operational, tested and ready for implementation. MCI has included a six month period for testing activities to ensure network reliability, and encourages wireless carriers to work together to complete the testing, and exchange test results and findings to further promote network reliability and the expeditious deployment of wireless number portability.

CTIA, on behalf of the wireless industry, should file monthly progress reports that identify the status of each of the fifteen milestones with the NANC and the WTB, and post them on CTIA’s and the INC’s web sites. These progress reports should provide a short narrative of the activities for the quarter, identify accomplishments, identify potential jeopardies and explain


how those jeopardies are being addressed. The reports will enable the industry and Commission to monitor progress, to apply their collective resources and technical expertise to resolve potential jeopardies and enable the Commission to remain abreast of the progress and development of wireless number portability.

CONCLUSION

MCI urges the Commission to deny the waiver petition, define additional intermediate milestones for achieving wireless number portability, and require the wireless industry through CTIA to provide regular and detailed reports to the NANC on its progress implementing number portability.

Respectfully submitted,

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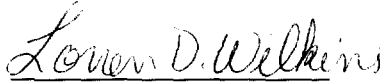
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Dated: January 9, 1998

CERTIFICATE OF SERVICE

I, Lorren D. Wilkins, hereby certify that a copy of MCI's comments on "CTIA Petition for Waiver to Extend the Implementation Deadlines Of Wireless Number Portability" was served by first class mail upon the following:



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